

Royal College of Nursing response to the Ministry of Justice's Consultation on the Human Rights Act Reform: A Modern Bill of Rights

1. With a membership of close to half a million registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.
2. The RCN expects any Bill of Rights to retain existing UK legislated human rights and to strengthen protection against violation of patients' and nurses' human rights, particularly in relation to access to essential health care and patient safety, torture and inhuman, cruel and degrading treatment, and discrimination and abuse.ⁱ We do not accept that there should be any requirement for responsibility of conduct of any individual in these fundamental human rights.
3. The RCN strongly supports the ideals and principles set out in the Universal Declaration of Human Rights, which is the primary statement of globally agreed human rights. The RCN's position is founded on its fundamental support for, and the UK's adherence to the following:
 - Universal Declaration of Human Rights (UN, 1948)
 - Geneva Conventions of 1949 and their additional protocols (UN 1949, 1977, 1978)
 - International Bill of Human Rights (UN 1948, 1966, 1989)¹
 - European Convention on Human Rights (Council of Europe 1950)
 - Human rights elements of the Treaty of Lisbon (European Community, 2007)
 - Charter of Fundamental Rights of the European Union (European Parliament, 2000)³
 - UN Convention on the Rights of the Child (UN, 1990) and ensuing UK and international law (Parliament, 1998).ⁱⁱ
4. The RCN agrees with the World Health Organization assertion that human rights and the promotion and protection of health are inextricably linked.ⁱⁱⁱ The Universal Declaration of Human Rights states that: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including... medical care and necessary social services..."^{iv}
5. However, there are very real and present concerns in relation to access to essential health care in the UK. There is simply not the healthcare workforce in place, nor plans to create a sustainable labour market and supply, to deliver safe and effective care to meet the needs of the population. Going into the COVID-19 pandemic, in January 2020, 73% of nursing staff surveyed by the RCN said that the staffing levels on their

shift were not sufficient to meet all the needs of the patients safely and effectively. One in five (19%) said they felt unable to raise their concerns about staffing levels and patient care.^v Nursing staffing levels were not acceptable to staff or patients then – and this will not have improved given that demand has only continued to build during that time. While the nursing workforce shortage has been exacerbated by the pandemic, this is a pre-existing and unresolved risk to access to health care. There remains variation across the UK with regard to government accountability for health and care workforce planning and supply as part of service and financial planning, in all care settings.

6. Human rights legislation reform must also address inequalities in relation to healthcare access, experience and outcomes for patient and public. Persistent inequalities resulting in further human rights violations remain in the form of loss of liberty, and indeed life, due to the current lack of consistency in accountability of governments in the UK to adequately provide safe and effective services, supplied with the required workforce, for citizens with mental illness and learning disability, within which there are also significant race inequalities.^{vi}
7. It is our view therefore that the UK Government takes the opportunity of reforming human rights legislation to clarify accountability of governments in the UK to transparently identify and mitigate any risk to the fundamental human rights specified in legislation, including addressing legal accountability for assessing the workforce requirements of health and care service, and for workforce planning and supply. Any wider legislation related to the provision of mental health services and treatment, or loss of liberty due to mental capacity, should also be required to have regard and uphold fundamental human rights.
8. The RCN is clear that work-related violence is a significant yet preventable occupational hazard for nursing and midwifery staff. RCN supports the Health and Safety Executive's definition of work-related violence as any incident in which a person is abused, threatened or assaulted in circumstances relating to their work. This can include verbal abuse or threats as well as physical attacks. Employers need to go further to prevent more assaults on public health workers.
9. We also know that nursing and midwifery staff are more likely to experience work related violence due to their actual or perceived disability status, ethnicity, immigration status and/or religious beliefs. The issues surrounding equality and human rights are complex and our members are affected as employees, by citizenship status, discriminatory behaviours and hate crime across all protected characteristics. Racially motivated hate crime and unequal treatment at work and in society is a key challenge and the potential changes to human rights could further disadvantage people living in deprived communities and affect their access to health care and services that impact on the wider determinants of health.
10. We are already seeing examples of abuse of rights and discrimination, under existing legislation as international nurse recruitment gathers pace. It is important to ensure that international nursing staff, including those who arrive here as refugees and

asylum seekers, are safeguarded in academic, clinical, and in wider society. Failure to achieve this will undermine their health and well-being and professional practice and performance. For example, some of the financial charges levied to international nursing professionals are prohibitive and unfair. International nursing workforce are often paid less than UK education workforce, due to lack of career progression and opportunities, even when they have significantly more knowledge, skill and experience. They can ill afford these costs and remain vulnerable.

11. Our 2019 survey of members working across all sectors found the following:
 - 29% of all respondents had experienced physical abuse from patients/service users or relatives over the previous 12 months. Of these, 68% had reported these incidents
 - 65% had experienced verbal abuse from patients/service users or relatives over the previous 12 months. Of these, 56% had reported these incidents
 - 39% had experienced bullying from a colleague. Of these, 47% had reported it
 - 37% of all black respondents said they had been verbally abused in the previous 12 months, compared to 20% of white respondents
 - 48% of Asian respondents and 47% of black respondents had experienced bullying, compared to 20% of white respondents
 - 50% of those who had experienced bullying at work said they were looking for a new job, compared to 29% of those who had not experienced bullying
12. The RCN is clear that everyone – including nursing staff - should be treated equitably, with dignity and respect at work. Bullying and harassment in the workplace is unacceptable and employers have a duty of care to provide a safe working environment for their staff. In 2021, the RCN had 2,495 bullying enquiries to our member helpline. On average, this is just over 200 calls per month from members who have witnessed and / or experienced bullying in their workplaces. Throughout 2021, 287 members who accessed RCN counselling (out of a total of 1367) reported that bullying and harassment was a significant issue for them. 63 out of a total of 1367 members told us they had suffered violence or assault.
13. The COVID-19 pandemic highlighted significant inequalities in terms of basic safety and right to life for nursing staff. The RCN carried out all-member surveys on access to Personal Protective Equipment and to vaccines which found clear inequities across the membership, including for Black and Minority Ethnic nursing staff, and nursing staff working in care homes.^{vii} The problem of structural racism within health and care settings and the life threatening impact it has on ethnic minority staff and patients must be acknowledged in reforms to human rights legislation. Structural and institutional racism must be taken seriously through demonstrable action to improve our understanding of the depth and complexity of the issue and better support staff who face discrimination at various points of delivering care.
14. We therefore expect any reform to legislation to protect nursing staff from third-party discrimination, bullying and physical and verbal abuse and risk to health and safety, by addressing employer and government level accountability to uphold human rights in the workplace.

15. A Bill of Rights should also address any elements of risk to fundamental rights to health and safety through the potential removal of the EU Working Time Directive, following the UK exit from the EU, and impact on health, safety, and well-being.
16. With regard to freedom of expression, the RCN supports nurses to protest peacefully, within any infection prevention control measures, and we expect a Bill of Rights to uphold this right.
17. We note the commitment from the UK government to remain fully committed to the Belfast (Good Friday) Agreement and that proposed reforms will not undermine that Agreement. This is absolutely paramount and the RCN fully expects this commitment to be fulfilled.

Contact: Antonia Borneo, Head of Policy & Public Affairs, UK and International, RCN
 Antonia.borneo@rcn.org.uk

ⁱ RCN (2012) Human rights and nursing: RCN position statement [Human rights and nursing | Royal College of Nursing \(rcn.org.uk\)](https://www.rcn.org.uk/human-rights-and-nursing)

ⁱⁱ RCN (2012) Human rights and nursing: RCN position statement [Human rights and nursing | Royal College of Nursing \(rcn.org.uk\)](https://www.rcn.org.uk/human-rights-and-nursing)

ⁱⁱⁱ WHO (2002) 25 Questions and Answers on Health and Human Rights, Geneva: WHO. Available at: [www.who.int/hhr/information/25%20 Questions%20and%20Answers%20on%20 Health%20and%20Human%20Rights.pdf](http://www.who.int/hhr/information/25%20Questions%20and%20Answers%20on%20Health%20and%20Human%20Rights.pdf) (accessed 29/03/12)

^{iv} (UN, 1948, Article 25(1).)

^v RCN (February 2022) UK Staffing for Safe and Effective Care: State of the nation's nursing labour market RCN biannual report

^{vi} RCN (2021) <https://committees.parliament.uk/writtenevidence/24964/pdf/>

^{vii} Royal College of Nursing (2020) Personal Protective Equipment: Use and availability during the COVID-19 pandemic Available at: www.rcn.org.uk/professional-development/publications/rcn-ppe-survey-covid-19-uk-pub-009235 (Accessed 21/1/22); Royal College of Nursing (2020) RCN COVID-19 Vaccine Survey Report. Available at: www.rcn.org.uk/professional-development/publications/rcn-vaccine-survey-report-covid19-uk-pub-009578 (Accessed 21/1/22); Royal College of Nursing (2020), Second Personal Protective Equipment Survey of UK Nursing Staff Report: Use and availability of PPE during the COVID-19 pandemic Available at: www.rcn.org.uk/professional-development/publications/rcn-second-ppe-survey-covid-19-pub009269 (Accessed 21/1/22)